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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.157 OF 2006
IN
CIVIL REVISION APPLICATION NO.476 OF 2003

Tulsidas Ambadas Chavan Applicant
versus
Uddhav Tukaram Gosavi and others Respondents

Mr.G.S.Godbole for applicant.
Mrs.Mudbidri for respondent no.1.

CORAM : A.S.OKA, J.

DATE : 15th March 2007

PC :

1. Heard learned advocates for parties. The Civil Revision Application filed by the applicant has been dismissed for non prosecution as a result of non compliance with the conditional order dated 16.1.2006 passed by this Court. Non compliance is as regards failure to serve notice to 6th and 9th respondents. Private notices were sent which were returned unserved.

2. Time granted by order dtd.16.1.2006 was further extended on 18th April 2006 by a period of three weeks.

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3. The Civil Revision Application stands dismissed as a result of failure to file proper service affidavit as regards respondent nos.6 and 9. On plain reading of the application it is apparent that all possible steps were taken to serve the notice to the unserved respondents and in this case the applicant cannot be blamed if service could not be effected before the date fixed by this Court. A litigant cannot be allowed to suffer on account of technicalities especially when no negligence can be attributed to the litigant. Hence, a case is made out for restoration of the Civil Revision Application. The Civil Revision Application is accordingly restored. Application is disposed of.

(A.S.OKA, J.)